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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,472	05/02/2001	Russell E. Stubbings	39130-1006	6902

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EXAMINER

MORROW, JASON S

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 01/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/847,472

Applicant(s)

STUBBINGS ET AL.

Examiner

Jason S. Morrow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/24/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 33-36 is/are allowed.
- 6) ☒ Claim(s) 1,3-21 and 23-32 is/are rejected.
- 7) ☒ Claim(s) 2 and 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 5-9, 11, 14, 17, 18, 21, 23-30, and 32, are rejected under 35 U.S.C. 102(b) as being anticipated by French Patent Number 2366147 (Peugeot).

Re claim 1, Peugeot discloses a shelf for a vehicle interior, comprising a front section including a recess for a visor (figure 1) and an upper surface (the upper surface of 8 which contacts the bottom of the radio 10) configured to removably receive at least one object, an elevated section (figure 3) structured to couple to the vehicle interior, and a rear section (see figure 3, the part of 7 to the left of the bolts) configured to contact the vehicle interior.

Re claim 3, the front section comprises a lower surface and an upper surface, with the lower surface configured to receive a visor, and the upper surface configured to receive one or more objects (10).

Re claim 5, a wall element (the front lip on the right hand side of the drawing) extends from at least one of the front section or the elevated section.

Re claim 6, the wall element extends along an edge of the elevated section and around the front section (see figure 2).

Re claim 7, the wall element is configured to engage a surface of the vehicle interior (see figures 2 and 3).

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Re claim 8, the elevated section is configured to engage a surface of the vehicle interior (see figures 3).

Re claim 9, the elevated section comprises at least one aperture (through which 6 passes) configured to receive a visor fastener.

Re claim 11, the rear section comprises an edge configured to contact a surface of the vehicle interior.

Re claim 14, the shelf includes an electrical power source (12) coupled to the shelf.

Re claim 17, the shelf is configured for installation in a vehicle selected from the group consisting of passenger vehicles, trucks, pickup trucks, recreational vehicles, sport-utility vehicles, vans, buses and semi-trailer vehicles.

Re claim 18, Peugeot et al. discloses a shelf for a vehicle interior, comprising a first section comprising a lower surface and an upper surface, the lower surface configured to receive a visor (figure 1), with the upper surface configured to removably receive one or more objects, and a second section structured to receive a visor fastener (figure 3), the visor fastener coupling the shelf to the vehicle interior.

Re claim 21, a third section (the left hand part of 7 shown in figure 3 extending past the fasteners) extends from the second section and is structured to contact a surface of the vehicle interior.

Re claim 23, a lower surface of the first section includes a recess for receiving the visor (see figure 1).

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Re claim 24, the second section comprises an elongated pocket for receiving a visor mount comprising a visor fastener and a visor base (see figure 1).

Re claim 25, Peugeot discloses a shelf for a vehicle interior comprising an elevated section comprising at least one attachment aperture (through which 6 passes) configured to receive a fastener for mounting the shelf to the vehicle interior, a front section (8) configured to removably receive one or more objects, with a weight of the objects creating a moment about the fastener, and a rear section (the left hand portion of 7 extending past the fastener 6) configured to contact a vehicle surface, thereby opposing the weight, and creating a counter-moment. Note that the moment and counter-moment are inherent to the construction of the prior art shown by Peugeot.

Re claim 26, the moment comprises a torque about the fastener and the rear section opposes the moment by exerting a force against the vehicle surface.

Re claim 27, the elevated section comprises a second attachment aperture configured to receive a second fastener (see figure 1).

Re claim 28, the fastener is a bolt (6).

Re claim 29, Peugeot discloses a method of attaching a shelf to a vehicle interior, the method comprising the steps of providing a shelf with at least one attachment aperture (through which 6 passes) located in an interior area of the shelf, attaching the shelf to the vehicle interior by placing a fastener through the attachment aperture, positioning a rear section of the shelf (the left hand portion of 7 extending past 6 in figure 3) against the vehicle interior so that a weight removably placed on an upper surface of the shelf (as seen in figure 2) is resisted by the rear section contacting the vehicle interior.

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Re claim 32, the weight, creates a moment about the attachment aperture, and the rear section resists the moment by contacting the vehicle interior.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent Number 2366147 (Peugeot) in view of Calkins.

Re claim 12, Peugeot discloses all the limitations of the claim, as applied above, except for the shelf including an anti-skid surface.

Calkins teaches the use of anti-skid surfaces for shelving (column 2, lines 28 and 29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a shelf, such as that above, to include an anti-skid surface, as is old and well known in the art, in order to provide a known improvement to a shelf and assist in keeping an article carried by the shelf in place during movement of the vehicle.

5. Claim 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent Number 2366147 (Peugeot) in view of the Dodge Brochure (Dodge).

Re claim 15 and 16, Peugeot discloses all the limitations of the claims, as applied above, except for the shelf having a surface texture and color matched to the vehicle interior.

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Dodge teaches interior accessories mounted to the roof of a vehicle interior having texture and color matched to the vehicle. Note that although the copy supplied to applicant is in black and white, the original is a color picture showing visors, roof, dash, and door panels matching in both color and textures.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a vehicle shelf, such as that above, to have a texture and color matched to the vehicle interior, as is old and well known in the art, in order to construct a vehicle that is desirable to the purchaser of a vehicle.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent Number 2366147 (Peugeot) in view of Gilson.

Re claim 4, Peugeot discloses all the limitations of the claim, as applied above, except for a net coupled to the front section.

Gilson teaches the use of a net (22) to restrain cargo.

It would have been obvious to one of ordinary skill in the art to modify a visor, such as that above, to include a net coupled to a front section, as taught by Gilson, in order to restrain cargo carried by the shelf and prevent it from moving rearward during hard acceleration of the vehicle.

7. Claims 10, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent Number 2366147 (Peugeot) in view of German Publication Number 2515397 (Kriesche).

Peugeot discloses all the limitations of the claims, as applied above, except for the elevated section including an aperture structured to receive a visor clip.

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Kriesche teaches the use of an aperture structured to receive a visor clip (figure 1).

It would have been obvious to one of ordinary skill in the art to modify an elevated section of a shelf, such as that disclosed by McCloy II et al., to include an aperture structured to receive a visor clip, as taught by Kriesche, in order to provide a more secure mounting for the shelf.

8. Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent Number 2366147 (Peugeot) in view of JC Whitney (JC).

Peugeot discloses all the limitations of the claim, as applied above, except for re-attaching the visor to the vehicle interior so that the shelf is captured between the vehicle interior and the shelf and one or more vehicle components selected from the group consisting of headliners, overhead consoles, window trim, and window moldings.

JC teaches a shelf capturing between the vehicle interior and the shelf a headliner (see the second page).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a console, such as that above, to re-attach the visor to the vehicle interior so that the shelf captures between the vehicle interior and the shelf and one or more vehicle components selected from the group consisting of headliners, overhead consoles, window trim, and window moldings, as taught by JC, in order to easily install the shelf without making modifications to the vehicle headliner.

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Allowable Subject Matter

9. Claims 2 and 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
10. Claims 33-36 are allowed.

Response to Arguments

11. Applicant's arguments filed 10/24/03 have been fully considered but they are not persuasive with regard to any of the art rejections.

In response to applicant's argument that the Peugeot reference does not disclose "an upper surface configured to removably receive at least one object", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). In this case, the shelf is capable of removably receiving an object. Although Peugeot teaches mounting a radio on the shelf, this is only an intended use for the shelf. There is no claimed structural difference between the current invention and the prior art in claims 1, 18, 25, and 29. Furthermore, "mounting", which Applicant defines as "to fix securely to a support" does not preclude a removable mounting. For example, a tire on a vehicle

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is a removably mounted object, but is certainly "securely fixed to the support". Mounting an object does not preclude its being removable.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason S. Morrow whose telephone number is (703) 305-7803. The examiner can normally be reached on Monday-Friday, 8:00a.m.-4:30p.m..

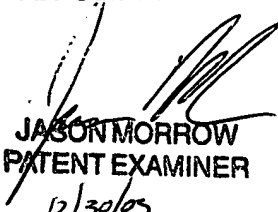
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9327 for regular communications and (703) 872-9326 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Jason S. Morrow
Examiner
Art Unit 3612

jsm
December 30, 2003


JASON MORROW
PATENT EXAMINER

12/30/03